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16
17 **UNITED STATES DISTRICT COURT**
18 **DISTRICT OF NEVADA**

19 INAG, INC., a Nevada corporation,

20 and

21 MARK H. JONES and SHERYLE L. JONES as
22 Trustees of the Mark Hamilton Jones and Sheryle
Lynn Jones Family Trust U/A/D November 7,
23 2013,

24 Plaintiffs/Counterdefendants,

25 v.

26 RICHAR, INC., a Nevada corporation,

27 Defendant/Counterclaimant.
28

CASE NO. 2:16-cv-00722-RFB-EJY

**MOTION TO SEAL EX. 3 TO
DEFENDANT /
COUNTERCLAIMANT RICHAR,
INC.'S EMERGENCY MOTION
TO STRIKE ANY UNDISCLOSED
TESTIMONY, ARGUMENT, OR
OPINION RELATING TO THE
DISPUTED TERM CARD**

1 Defendant/Counterclaimant, Richar, Inc. (“Richar”), moves to seal Exhibit 3 in its
2 Emergency Motion to Strike Any Testimony, Argument or Opinion Relating to Whether an Indicia
3 is a Card (“Motion”). Exhibit 3 is Plaintiff INAG, Inc.’s (“INAG”) expert report, which is a
4 voluminous exhibit containing confidential commercial information and financial data, and it
5 references documents that were designated by the parties as confidential under a Protective Order.
6 Pursuant to LR IA 10-5, Richar seeks to file Exhibit 3 to its Motion under seal.

7 **I. LEGAL ANALYSIS**

8 There is a strong presumption of public access to judicial records. *See Kamakana v. City*
9 *& County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). Generally, “[a] party seeking to seal
10 judicial records can overcome the strong presumption of access by providing ‘sufficiently
11 compelling reasons’ that override the public policies favoring disclosure.” *In re Midland Nat. Life*
12 *Ins. Co. Annuity Sales Practices Litig.*, 686 F.3d 1115, 1119 (9th Cir. 2012). Yet, the presumption
13 does not apply to judicial records filed under seal when attached to a non-dispositive motion. *Id.*
14 Instead, a particularized showing of “good cause” under Rule 26(c) is sufficient to preserve the
15 secrecy of sealed documents attached to non-dispositive motions. *Id.* Even under a higher burden
16 of overcoming the strong presumption of access, Nevada courts have found that exhibits containing
17 “confidential business information,” including those which “could potentially damage the parties’
18 competitive standing” constitutes a compelling reason for sealing a document. *See, e.g., Hunt v.*
19 *Zuffa, LLC*, 528 F. Supp. 3d 1180, 1188 (D. Nev. 2021); *First 100 LLC v. Omni Financial, LLC*,
20 No. 2:16-cv-00099-RFB-CWH, 2016 WL 5661916, at *1 (D. Nev. Sept. 29, 2016); *Boca Park*
21 *Marketplace Syndications Group, LLC v. Ross Dress for Less, Inc.*, No. 2:16-cv-01197-RFB-
22 BNW, 2020 WL 2892586, at *5 (D. Nev. May 31, 2010); *Scientific Games Corp. v. AGS, LLC*,
23 No. 2:17-cv-00343-JAD-NJK, 2017 WL 1228412, at *2 (D. Nev. Apr. 3, 2017).

24 Here, the lesser “good cause” standard applies because the Motion is a non-dispositive
25 motion relating to the presentation of certain evidence at trial. Richar seeks to seal Exhibit 3 to its
26 Motion in its entirety. Exhibit 3 is INAG’s expert report relating to its infringement contentions,
27 and it references a voluminous amount of confidential business information that the parties
28 designated as “confidential” that could damage the parties’ competitive standing if leaked.

1 Because the exhibit contains confidential business information, good cause exists to protect the
2 parties' competitive standing.

3 **II. CONCLUSION**

4 The Court should grant Richar's Motion to Seal because Exhibit 3 to its motion contains
5 contain confidential commercial information, the disclosure of which could harm the parties'
6 competitive standing.

7 DATED this 4th day of August, 2024.

8 Respectfully submitted,

9 GREENBERG TRAURIG, LLP

10 /s/ Tyler R. Andrews

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20 IT IS SO ORDERED.

21 
22 Dayna J. Zouchak
23 U.S. MAGISTRATE JUDGE

24 Date: August 6, 2024